REMARKS

This Amendment is in response to the Office Action mailed 05/28/2004. In the Office Action, (i) claims 8-9, 11, 43-44, 61, and 65-68 were rejected under 35 U.S.C. § 112, 2nd para.; (ii) claims 1, 6, 8-9, 17, 22, 40, 43-44, and 47-55 were rejected under 35 U.S.C. § 102(b or e); (iii) claims 7, 12-15, 23-30, 33, 35-38, 56, 70-81, 91-94, 101-103, and 107-109 were rejected under 35 U.S.C. § 103(a); and (iv) claims 4-5, 11, 18-21, 56-69, 95-100, and 104-106 were indicated as being allowable over the prior art.

Reexamination and reconsideration in view of the amendments and the remarks made herein is respectfully requested.

Claims 1, 4-9, 11-15, 17-30, 33, 35-38, 40, 43-44, and 47-109 were previously pending. Claims 2-3, 10, 16, 31-32, 34, 39, 41-42 and 45-46 were previously cancelled without prejudice.

Applicant has amended claims 1, 8-9, 11, 17, 23-24, 26-27, 29-30, 33, 36-38, 40, 43-44, 50, 52-53, 55, 60, 67, and 70 by this response. Claims 28, 51, and 65-66 have now been cancelled without prejudice. Applicant has added new dependent claims 110-131. Accordingly, claims 1, 4-9, 11-15, 17-27, 29-30, 33, 35-38, 40, 43-44, 47-50, 52-64, and 67-131 are now pending. Of the claims pending, claims 1, 4-5, 17-18, 21, 23, 26, 29, 33, 40, 55-56, 63, 70, and 84 are independent claims.

Applicant believes that no new matter has been added by this response.

I) Applicant's Interview Summary

On September 23, 2004, a telephonic interview was held by and between Examiner Ackun and Applicant's Attorney, William E. Alford, regarding the above referenced patent application.

Typographical errors in the Office Action were initially discussed with respect to claims 56, 82-90, and 91. Claim 56 was allowed in section 6 and rejected in section 5 of the Office Action. The status of claims 82-90 was not indicated in the Office Action while claim 91 that depends from independent claim 84 was indicated as being rejected in section 5.

Examiner Ackun clarified the status of these claims and the typographical errors as follows:

Claim 56 is allowable and was mistakenly included in the obviousness rejection in section 5 of the Office Action.

Claims 82-83, depending from claim 70, stand rejected under 35 USC 103(a) with independent claim 70 in section 5 of the Office Action.

Claims 84-91 are allowable. Claim 91 was mistakenly included in the obviousness rejection in section 5 of the Office Action.

A discussion of the 35 USC 112, 2nd paragraph rejection occurred next with respect to claims 8-9 and the temperature or temperature range to which chocolate is to be heated. Applicant explained that the functional limitation of the temperature was to further clarify how to heat the chamber to melt chocolate at or above the melting point of chocolate. Applicant explained that a low wattage heater would be used to heat the chamber to such temperature and temperature ranges and Applicant explained that it would add—low wattage— into claim 1 to further clarify the structure of the heater and distinguish it from the heaters used in U.S. Pat No. 4,265,618 issued to Herskovitz and U.S. Pat No. 5,026,187 issued to Belanger. With this explanation, Examiner Ackun agreed to withdrawal the 35 USC 112, 2nd paragraph rejections of claims 8-9.

A discussion of claim 1 with respect to <u>Herskovitz</u>, <u>Belanger</u>

Docket No: 78781P031 36 WEA/phs

and U.S. Pat No. 6,460,736 issued to D'Agostino occurred next. Applicant explained that the heaters used in Herskovitz and Belanger were relatively high wattage heaters to heat adhesives and thermoplastics in comparison with Applicant's heater for Applicant further explained that the temperatures chocolate. disclosed to which Herskovitz and Belanger heaters heated materials was so high above the melting point of solid chocolate that it would readily burn. It was agreed that amending claim 1 to add --low wattage-- to further define "heater" would structurally distinguish Applicant's heater over the heaters used by Herskovitz and Belanger. Applicant offered to add dependent claims further reciting a range of wattage for low wattage heaters. It was further agreed that amending claim 1 to add -manual -- to modify "plunger" and --smooth -- to modify Applicant's "rod" would structurally distinguish Applicant's manual plunger in claim 1 over that of D'Agostino's ratchet bar. Amending the preamble of claim 1 to recite a toy chocolate dispenser was also discussed by replacing "portable" with --toy-- to indicate that the chocolate dispenser was a low cost dispenser for use by children, in contrast with a commercial dispenser for use by bakers. Applicant took this under advisement without reaching an agreement to add --toy-- into claim 1.

A discussion of claim 17 with respect to <u>Herskovitz</u>, <u>Belanger</u> and <u>D'Agostino</u> occurred next. It was agreed that amending claim 17 to add --low wattage-- to further define "heater" would structurally distinguish Applicant's heater over the high wattage heaters used by <u>Herskovitz</u> and <u>Belanger</u>. Regarding <u>D'Agostino</u>, Applicant explained that <u>D'Agostino</u>'s barrel and cartridge could be easily removed or disassembled from the confectionery dispenser for cleaning. It was agreed that amending claim 17 to add --fixed

heating— to modify "chamber" with the chamber being —coupled to a housing— would structurally distinguish Applicant's chamber over <u>D'Agostino's</u> barrel and cartridge. A discussion of the support in the application for the language "fixed" in the phrase "fixed heating chamber" ensued. It was agreed that because "fixed" is commonly found in a dictionary, the figures of the patent application would sufficiently support adding the phrase "fixed" without adding new matter into the patent application.

A discussion of independent claim 40 with respect to Herskovitz, Belanger and D'Agostino occurred next. It was agreed that amending claim 40 to add --low wattage-- to further define "heater" would structurally distinguish Applicant's heater over the high wattage heaters used by Herskovitz and Belanger. It was agreed that amending claim 40 to add --smooth-- to modify the "rod" would structurally distinguish Applicant's plunger of claim 40 over that of D'Agostino's ratchet bar.

A discussion of independent claim 55 with respect to Herskovitz, Belanger and D'Agostino occurred next. It was agreed that amending claim 40 to add --low wattage-- to further define "heater" would structurally distinguish Applicant's heater over the high wattage heaters used by Herskovitz and Belanger. It was agreed that amending claim 55 to add --manual-- to modify "plunger" and --smooth-- to modify the "rod" would structurally distinguish Applicant's manual plunger of claim 55 over that of D'Agostino's ratchet bar.

A discussion of independent claim 33 with respect to Herskovitz, Belanger and D'Agostino occurred next. It was agreed that amending claim 33 to add --low wattage-- to further define "heater" would structurally distinguish Applicant's heater over the high wattage heaters used by Herskovitz and Belanger.

Amending claim 33 to add --direct manual-- to modify "means" was discussed to distinguish from <u>D'Agostino</u>'s ratchet feeder mechanism.

A discussion of independent claim 70 with respect to Herskovitz, Belanger and D'Agostino occurred next. Applicant explained that the Herskovitz, Belanger and D'Agostino didn't appear to have a dispensing station. Examiner Ackun explained that any surface could provide support. It was agreed that amending claim 70 by adding -- and hold-- to the functionality of the dispensing station would distinguish over the prior art references of Herskovitz, Belanger and D'Agostino.

A discussion of independent claim 23 was unfortunately skipped. No claim amendments nor was any prior art specifically discussed with respect to method claim 23. Accordingly, no claim amendment agreement of claim 23 was thus reached. However as discussed below, Applicant has amended claim 23.

No exhibit was shown nor was any demonstration conducted during the telephonic interview with the Examiner.

II) Allowable Subject Matter

Applicant respectfully thanks the Examiner for indicating in the Office Action that claims 4-5, 11, 18-21, 56-69, 95-100, and 104-106 are allowable over the prior. Applicant also respectfully thanks the Examiner for indicating in the telephonic interview that claims 84-91 were also in condition for allowance.

However, claims 11, 61, and 65-68 were still rejected under 35 USC 112, 2^{nd} paragraph in Section 2 of the Office Action.

III) Claim Rejections Under 35 U.S.C. § 112, second paragraph

In Section 2 of the Office Action, claims 8-9, 11, 43-44, 61, and 65-68 were rejected to under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. [Office Action, page 2, section 2]. Applicant respectfully traverses this rejection.

Applicant has cancelled claims 65-66. Accordingly, it is believed that this rejection of claims 65-66 is now moot.

Regarding claims 8, 9, 11, 43-44, 60 (from which claim 61 depends), and 67 (from which claim 68 depends), the reference to "heater" has been amended to "low wattage heater" therein.

Applicant has further amended dependent claims 8-9 by removing the melting point limitation from independent claim 1 and adding it into dependent claims 8-9.

Applicant has further amended dependent claim 11 to clarify the temperature range over which the low wattage heater is to heat the chamber at or above a melting point of solid chocolate.

Independent claim 40 specifies that the low wattage heater is to heat the heating chamber to a temperature above the melting point of solid chocolate. Dependent claim 43 specifies a temperature to which the heating chamber is to be substantially heated to above the melting point of solid chocolate. Applicant has further amended dependent claim 44 to clarify the temperature range over which the low wattage heater is to heat the heating chamber above the range of melting points of solid chocolate.

Dependent claim 61 clarifies the temperature above which the heating chamber is to be heated by the low wattage heater in order to melt chocolate. Dependent claim 67 clarifies that the heater

is a low wattage heater that is used to heat the collapsible heating chamber to a temperature above a melting point of solid chocolate. Similar to claim 61, dependent claim 68 clarifies the temperature above which the collapsible heating chamber is to be heated by the low wattage heater in order to melt chocolate.

Note that different types of chocolate may have different melting points. "Typical melting points for chocolate can range between 86 degrees F to 96 degrees F, lower than the typical body temperature of 98.6 degrees F. Depending upon what's mixed into the chocolate, the melting point may be of a higher temperature." [Specification, page 10, lines 3-6]. In one embodiment, the "solid chocolate is melted into liquid chocolate by the heater 106 heating the chamber and the chocolate up to 105 degrees F. In an alternate embodiment, the heater 106 can heat the chamber over a range of temperatures to melt solid chocolate." [Specification, page 10, lines 7-11].

Note that the rejection of claims 8 and 9 was particularly discussed in the telephonic interview with the Examiner on September 23, 2004. As described in the interview summary above, Applicant explained that the functional limitation of the temperature was to further clarify how to heat the chamber to melt chocolate. Applicant explained that a low wattage heater would be used to heat the chamber to such temperature and temperature ranges. Applicant further explained that it would add ——low wattage—— into claim 1 to further clarify the structure of the heater and distinguish it from the heaters used in U.S. Pat No. 4,265,618 issued to Herskovitz and U.S. Pat No. 5,026,187 issued to Belanger. With this explanation, Examiner Ackun agreed to withdrawal the 35 USC 112, 2nd paragraph rejections of claims 8-9.

Applicant respectfully submits that these claim amendments

now make this rejection of claims 8-9, 11, 43-44, 61, and 67-68 moot.

For the foregoing reasons, Applicant respectfully requests the withdrawal of the 35 U.S.C. § 112, second paragraph rejection of claims 8-9, 11, 43-44, 61, and 65-68.

IV) Claim Rejections Under 35 U.S.C. § 102(b) and (e)

Claims 1, 6, 8-9, 17, 22, 40, 43-44, and 47-55 were rejected under 35 U.S.C. § 102(b or e) as being anticipated by U.S. Patent 6,460,736 issued to D'Agostino (<u>D'Agostino</u>); or U.S. Patent 4,265,618 issued to Herskovitz, et al. (<u>Herskovitz</u>); or U.S. Patent 5,026,187 issued to Belanger, et al. (<u>Belanger</u>). [Office Action, page 3, Section 3]. Applicant respectfully traverses this rejection.

In accordance with the agreements made in the telephonic interview with the Examiner which has been summarized above, Applicant has amended independent claims 1, 17, 40, and 55 to clarify Applicant's claimed invention. Independent claims 1, 17, 40, and 55 have been amended to recite a low wattage heater. Independent claims 1, 40, and 55 have been further been amended to recite a plunger with a smooth rod. Claims 1 and 55 were further amended to recite that the plunger is a manual plunger. Claim 17 was further amended to recite a fixed heating chamber.

Applicant considered the suggestion to add --toy-- to the preamble of independent claim 1 as well as other claims. However, the word "toy" may be ambiguously interpreted. While Applicant intends toy to be interpreted to mean a low cost construction for use by children, toy may be interpreted to mean a scaled size, a fake, or an imitation. Moreover in section 2 of the Office

Action, claims 65-66 (now cancelled by this response) have been rejected under 35 USC \$112, 2nd paragraph. Claim 65 recites that the portable chocolate dispenser is a toy chocolate dispenser for use by children. In section 2 of the Office Action, claim 65 was found to be indefinite as it was not clear how the term was intended to further limit that which is claimed. Thus for the foregoing reasons, Applicant has not added the word "toy" into the preamble of claim 1 or any other claim at this time. Applicant understands that "toy chocolate dispenser" is used in claim 70 and respectfully submits that it is to be interpreted to mean a low cost chocolate dispenser constructed of low cost materials that can be sold at low cost for use as a toy.

Regarding the independent claims 1, 17, 40, and 50, Applicant respectfully submits that neither <u>Herskovitz</u> nor <u>Belanger</u> disclose a low wattage heater to melt chocolate.

Herskovitz discloses a heating element that heats thermoplastic material to a temperature exceeding the melting point of the various types of chocolate. Herskovitz's heating element would cause chocolate to burn. As stated in Herskovitz. "[a]n electric resistance heating element carried by the heater body provides sufficient heat to maintain the entire needle above 230 F at which the thermoplastic material will flow but below the temperature at which the material thermally decomposes."

[Herskovitz, Abstract, lines 19-23].

Belanger similarly discloses a heating device that heats polyamide adhesives to a temperature exceeding the melting point of the various types of chocolate and would cause it to burn. As stated in <u>Belanger</u>, a "polyamide adhesive [] is heated to its normal application temperature of 350 F". [Belanger, Col. 3, lines 18-20].

Herskovitz and Belanger heating elements are high wattage heaters in comparison with Applicant's low wattage heater that is used to melt chocolate.

Regarding <u>D'Agostino</u>, claims 1, 40, and 55 have been amended to recite a plunger with a **smooth** rod. Dependent claim 51, dependent from independent claim 40, has been cancelled without prejudice. Claim 17 was amended to recite a **fixed** heating chamber.

Regarding the rejected independent claims 1 and 55, Applicant respectfully submits that <u>D'Agostino</u> does not disclose a handle at the end of a manual plunger to manually apply pressure to chocolate. Specifically, <u>D'Agostino</u> does not disclose a "manual plunger includ[ing] a handle at a first end of a smooth rod" "to manually apply pressure to chocolate" as recited in amended independent claim 1. [Claim 1 as amended, lines 14-15, and 18]. Nor does <u>D'Agostino</u> disclose "a manual plunger having a handle at a first end of a smooth rod" "to manually apply pressure to liquid chocolate and dispense it from the chamber through the opening in the nozzle" as recited in amended independent claim 55. [Claim 55 as amended, lines 13 and 16-18].

Regarding the rejected independent claim 40, Applicant respectfully submits that <u>D'Agostino</u> does not disclose a plunger having a piston at a first end of a smooth rod nor a second housing to slidingly couple to the plunger. Specifically, <u>D'Agostino</u> does not disclose "a plunger having a piston at a first end of a smooth rod". [Claim 40 as amended, lines 14-15]. Nor does <u>D'Agostino</u> disclose "a second housing coupled to the first housing, the second housing slideningly coupled to the plunger to align the piston of the plunger with the heating chamber" as recited in amended independent claim 40. [Claim 40 as amended,

lines 20-22].

Regarding the rejected independent claim 17, Applicant respectfully submits that <u>D'Agostino</u> does not disclose a fixed heating chamber. <u>D'Agostino's</u> "[c]onfectionary dispenser 30 can be easily assembled and disassembled to facilitate cleaning."

<u>D'Agostino's</u> "[r]emovable barrel 64 is unscrewed and removed".

[<u>D'Agostino</u>, col. 5, lines 18-19 and 21-22]. <u>D'Agostino's</u>

"[c]onfectionary dispenser 130 can [also] be easily assembled and disassembled to facilitate cleaning." After <u>D'Agostino's</u> plunger 136 is removed from <u>D'Agostino's</u> cartridge 140, the

"[c]onfectionary cartridge 140 is then removed". [<u>D'Agostino</u>, col. 6, line 67]. The "[c] cartridge extension 162 is unscrewed and removed". [<u>D'Agostino</u>, col. 7, lines 1-2].

For the foregoing reasons, Applicant respectfully submits that independent claims 1, 17, 40, and 55 are not anticipated by any of <u>Herskovitz</u>, <u>Belanger</u>, or <u>D'Agostino</u>.

Rejected dependent claims 6, 8-9, and 22 depend directly or indirectly from independent claim 1. Rejected dependent claims 43-44 and 47-54 depend directly or indirectly from independent claim 40.

Applicant respectfully submits that independent claims 1, 17, 40, and 55 are in condition for allowance over <u>Herskovitz</u>, <u>Belanger</u>, and <u>D'Agostino</u> such that dependent claims depending therefrom with further limitations are also in condition for allowance.

Applicant respectfully requests the withdrawal of the 35 USC 102(b) and (e) rejections of claims 1, 6, 8-9, 17, 22, 40, 43-44, and 47-55.

V) Claim Rejections Under 35 U.S.C. § 103(a)

Claims 7, 12-15, 23-30, 33, 35-38, 70-83, 92-94, 101-103, and 107-109 were rejected under 35 U.S.C. § 103(a) as being unpatentable over <u>D'Agostino</u>; or <u>Herskovitz</u>; or <u>Belanger</u>. [Office Action, page 3, Section 5]. Applicant respectfully traverses this rejection.

As is discussed in the interview summary, the inclusion of claims 56 and 91 in this rejection was a typographical error so these claim numbers are not included the claim rejection cited above. However, claims 82-83 are included in the claim rejection.

Applicant previously described why independent claims 1, 17, 40, and 55 are not anticipated and thus it is respectfully submitted that they are also not made obvious under 35 USC 103(a) by <u>D'Agostino</u>; or <u>Herskovitz</u>; or <u>Belanger</u>.

Rejected dependent claims 7, 12-15 and 92-94 depend directly or indirectly from independent claim 1. Rejected dependent claims 101-103 depend directly or indirectly from independent claim 17. Rejected dependent claims 107-109 depend directly or indirectly from independent claim 55.

Applicant respectfully submits that independent claims 1, 17, 40, and 55 are in condition for allowance over <u>Herskovitz</u>, <u>Belanger</u>, and <u>D'Agostino</u> such that dependent claims depending therefrom with further limitations are also in condition for allowance.

Method claims 26 and 29, previously dependent claims depending from independent claim 23, have been amended into independent form.

In accordance with the agreements made in the telephonic interview with the Examiner which is summarized above, Applicant has amended independent claims 33 and 70 to clarify Applicant's

claimed invention. Although not discussed in the interview with the Examiner, independent claims 23, 26, and 29 have also been amended to clarify Applicant's claimed invention, some of which are in accordance with the claim amendments made to method claim 33.

Independent claim 33 as well as independent claims 23, 26, and 29 have been amended to recite a low wattage heater or a low watt electric heater. Independent claims 33 has been further amended to recite a direct manual means and directly applying Independent claims 23 has been further amended to pressure. recite a manual plunger and directly applying a force to an end of the manual plunger. Accordingly, dependent claim 28 has been cancelled without prejudice and claim 30 has been amended. temperature range limitation in independent claim 23 has been removed while retaining the functionality of the low watt electric heater. Dependent claim 25 has been amended to recite the temperature range limitation and depend directly from independent Independent claim 70 has been amended to clarify the functionality of the dispensing station to support and hold the toy chocolate dispenser.

As discussed previously, Applicant respectfully submits that neither <u>Herskovitz</u> nor <u>Belanger</u> disclose a low wattage heater or a low watt electric heater to heat chocolate as is recited in independent claims 23, 26, 29, and 33.

Regarding independent claim 33, Applicant respectfully submits that <u>D'Agostino</u> does not disclose "a direct manual means to apply pressure" and "directly applying pressure to the liquid chocolate using the direct manual means" as is recited in independent claims 33. (emphasis added). [Claim 33, lines 4-5 and 15-16].

Regarding independent claim 23, Applicant respectfully submits that <u>D'Agostino</u> does not disclose "directly applying a force to an end of a manual plunger to manually dispense a portion of the liquid chocolate" as is recited in independent claims 23. [Claim 23, lines 9-10].

Regarding independent claim 26, Applicant respectfully submits that <u>D'Agostino</u> does not disclose "applying gas pressure to the liquid chocolate in the chamber to dispense a portion of the liquid chocolate" as is recited in independent claims 26. [Claim 26, lines 8-9].

Regarding independent claim 29, Applicant respectfully submits that <u>D'Agostino</u> does not disclose "manually applying mechanical pressure to the liquid chocolate in the chamber by squeezing a flexible bladder" as is recited in independent claims 26. [Claim 26, lines 8-9].

Regarding the rejected independent claim 70, Applicant respectfully submits that neither <u>Herskovitz</u> nor <u>Belanger</u>, nor <u>D'Agostino</u> disclose a dispensing station. More specifically, neither <u>Herskovitz</u> nor <u>Belanger</u>, nor <u>D'Agostino</u> disclose "a dispensing station to support and hold the toy chocolate dispenser over a dispensing area of the dispensing station to dispense liquid chocolate therein" as recited in amended independent claim 70. (emphasis added) [Claim 70 as amended, lines 10-13].

For the foregoing reasons, Applicant respectfully submits that independent claims 23, 26, 29, 33 and 70 are not made obvious by any of <u>Herskovitz</u>, <u>Belanger</u>, or <u>D'Agostino</u>.

Rejected dependent claims 24-25, and 30 depend directly or indirectly from independent claim 23. Rejected dependent claim 27 depends directly from independent claim 26. Rejected dependent claim 28 has been cancelled such that the rejection is believed to

be moot. Rejected dependent claims 35-38 depend directly or indirectly from independent claim 33. Rejected dependent claims 71-83 depend directly or indirectly from independent claim 70.

Applicant respectfully submits that independent claims 1, 17, 23, 26, 29, 33, 40, 55, and 70 are in condition for allowance over Herskovitz, Belanger, and D'Agostino such that dependent claims depending therefrom with further limitations are also in condition for allowance.

Applicant respectfully requests the withdrawal of the 35 USC 103(a) rejection of claims 7, 12-15, 23-30, 33, 35-38, 70-83, 92-94, 101-103, and 107-109.

VI) New Claims

Applicant has added new dependent claims 110-131. No new independent claim has been added.

New claim 110 depends directly from independent claim 1.

New claim 111 depends directly from independent claim 17.

New claims 112-115 depend directly or indirectly from independent claim 23.

New claims 116-119 depend directly or indirectly from independent claim 26.

New claims 120-123 depend directly or indirectly from independent claim 29.

New claims 124-127 depend directly or indirectly from independent claim 33.

New claim 128 depends directly from independent claim 40.

New claim 129 depends directly from independent claim 55.

New claim 130 depends indirectly independent claim 56 and directly from dependent claim 60. Independent claim 56 was

indicated as being allowable.

New claim 131 depends directly from independent claim 67.

Applicant respectfully submits that independent claims 1, 17, 23, 26, 29, 33, 40, 55, 56, and 67 are in condition for allowance such that these new dependent claims 110-131 depending respectively there-from with further limitations are also in

condition for allowance.

Applicant respectfully submits no new matter has been added. The low wattage is supported in the specification at page 8, lines 3-4 that describes a power of three and one-half watts. If a slightly higher temperature is desired for an equivalent period, such as one hundred twenty degrees, some additional power is required - five watts for example. Five watts is well below the power requirements of <u>Herskovitz</u> and <u>Belanger</u>.

VII) Specification Amendment

Applicant has amended three paragraphs of the specification as it was originally filed.

The first paragraph was amended into two paragraphs to clarify the transition to Figures 3A-3C from that of Figures 2A-2C.

The remaining two paragraphs were added to correct a typographical error in the Figure references. There is no Figure 1D only Figures 1A-1C. Figure 1B clearly illustrates chocolate dispenser 100A' including a squeeze bulb 160. Figure 1C clearly illustrates chocolate dispenser 100A' including a flexible bladder 170.

Applicant respectfully submits that no new matter has been added to the specification.

Docket No: 78781P031

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WEA/phs

CONCLUSION

In view of the foregoing it is respectfully submitted that the pending claims are in condition for allowance.

Reconsideration of the rejections and objections is requested. Allowance of the claims at an early date is solicited.

The Examiner is invited to contact Applicant's undersigned counsel by telephone at (714) 557-3800 to expedite the prosecution of this case should there be any unresolved matters remaining.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees in connection with the filing of this paper, including extension of time fees, to Deposit Account 02-2666 and please credit any excess fees to such deposit account.

Dated: September 28, 2004

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CERTIFICATE OF FACSIMILE TRANSMISSION

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I hereby certify that this correspondence is being transmitted via facsimile to the Patent and Trademark Office under 37 CFR §1.8 on: September 28, 2004 to Examiner Ackun at (703) 872-9306.

Pat Sulivan

9/28/04

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Date